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June 28, 2023

VIA ECF

Hon. Denise L. Cote, U.S.D.J.
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *S.E.C. v. Rosenberger, et al.*, Case No. 22-cv-4736-DLC

Dear Judge Cote:

We write jointly on behalf of Karen Rosenberger and the SEC, with the consent of Joanna Lanni, to request a brief (approximately 30-day) extension of the deadlines for summary judgment motion papers, so that the parties can continue their ongoing settlement discussions and attempt to resolve this action without the additional burden and expense associated with summary judgment motion practice.

The current deadlines for summary judgment papers are July 21, 2023 (motions), August 18, 2023 (oppositions), and September 15, 2023 (replies). Pretrial Scheduling Order, September 30, 2022 (ECF 45) (the “Scheduling Order”), ¶ 6. For the reasons set forth below, the parties respectfully request that the Court adjourn the deadlines until August 18, 2023, September 15, 2023, and October 20, 2023, for summary judgment motions, oppositions, and replies,¹

As the deadlines for summary judgment motions are the only remaining deadlines in the Scheduling Order, this request will not affect any other deadlines in this action.

I. Fact and Expert Discovery is Complete.

As Your Honor is aware, the SEC filed the complaint in this action on June 7, 2022 (ECF 1), following a multi-year confidential investigation of the conduct at issue. The SEC brings nine

¹ The SEC has requested that the deadlines for replies be October 20, 2023 to accommodate previously scheduled travel commitments in late September and early October 2023.

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claims against Ms. Rosenberger and Ms. Lanni, concerning accounting determinations for five transactions.

Since the Court issued its Scheduling Order, the parties have worked diligently to comply with all deadlines set forth in that order and have (with only a few minor exceptions) succeeded in meeting those deadlines.²

Specifically, Ms. Rosenberger and Ms. Lanni did not seek a stay of discovery pending their motions to dismiss, which were fully briefed as of November 18, 2022 (*see* ECF 34, 36, 56, 68, 70), and the parties completed fact discovery—which included production and review of hundreds of thousands of documents and nine full-day depositions—on April 24, 2023.

With respect to expert discovery, the SEC served its expert report on April 28, 2023, and Ms. Rosenberger and Ms. Lanni served their rebuttal reports in May 23, 2023. All three experts have been deposed, and expert discovery was completed on June 27, 2023.

II. The Parties are Engaged in Active and Productive Settlement Negotiations.

Parallel to their diligent litigation of this case, the parties are engaged in ongoing, productive settlement discussions.

As directed by Your Honor, the parties participated in a settlement conference before Magistrate Judge Cave on February 27, 2023, following the depositions of Ms. Rosenberger and Ms. Lanni. In advance of the conference, all parties submitted detailed statements setting forth their settlement positions. The February 27, 2023 conference lasted several hours and involved several, good-faith exchanges between the parties. The parties were ultimately unable to reach a resolution at that conference but agreed that they would re-engage in settlement conversations as discovery continued.

In early June 2023, following the exchange of expert reports, the SEC and Ms. Rosenberger renewed their settlement discussions, and have gone back-and-forth with several iterations of settlement demands and counter-offers. These discussions took place as recently as yesterday, June 27, 2023, following the conclusion of the deposition of Ms. Rosenberger's expert. The parties have also discussed the possibility of renewing the mediation with Magistrate Judge Cave in an effort to see if she can assist in reaching a final resolution.

III. A 30-Day Extension Would Facilitate Further Settlement Discussions.

² For example, the parties received three brief extensions (ranging from four to 17 days) of the deadlines set forth in the Scheduling Order to accommodate third-party and expert witnesses' availability for depositions (ECF 95, 102) and to afford Ms. Lanni's expert sufficient time to prepare an expert report (ECF 99). This is the parties' first request for an extension related to summary judgment deadlines.

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As noted above, all parties join in this request. The parties believe that they can use the next month to explore mediation options and otherwise continue to work in good faith to resolve this action without the further expense and burden associated with preparing summary judgment papers, which will be significant given the size and complexity of this case.

We appreciate Your Honor's attention to this request and are available at Your Honor's convenience should the Court wish to discuss this request.

Respectfully submitted,

/s/ Jenny Kramer

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